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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/775,949	02/02/2001	Olivier de Pous	VAL1599P0190US	1510

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WOOD, PHILLIPS, KATZ, CLARK & MORTIMER  
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CHICAGO, IL 60661

EXAMINER

NGO, LIEN M

ART UNIT PAPER NUMBER

3727

DATE MAILED: 12/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/775,949

Applicant(s)

POUS ET AL.

Examiner

LIEN TM NGO

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 20 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) 10-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 17-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 1-9 and 17-24 are objected to because of the following informalities: "Attachment device" at the beginning of the claims should be -- An attachment device-- in the independent claims or --The attachment device-- in the dependent claims. Appropriate correction is required. In claim 17, line 11 and 12, "the upper end" should be --the upper end of the neck--.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 1-9 and 17-24 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

In claims 1-3, the attachment means is substantially undeformable is not supported in the specification. In fact, the attachment means in the present invention comprises clip-on head which is flexible and deformable.

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In claim 17, line 5 “a substantially undeformable annual plate” is not supported in the specification, in fact, in the present inventions, the plate 102 is the same material with the connection 106 which is deformable.

In claim 21, “a helical outer edge of the plate” is not supported in the specification

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 17-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. In claim 17, “not definitively mounted” is indefinite. The term “not definitively” is a relative term which renders the claim indefinite. The specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention.

In claim 25, “not definitively mounted” and “definitely mounted” are indefinite.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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8. Claims 1-7, 17-20, 23-26, 28 and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by de Pous et al. (5,799,810).

In regard to claims 1-7, Pous et al. disclose, in figs. 1 and 3, an attachment device comprising a ring 10 having a reception means 15, an annular plate 11 having a thin connection portion, an attachment means 13. The ring is made from deformable material (plastic, snap fastening attachment means 12, 13); therefore the plate is capable to move away from the attachment means such as the distance between the plate and the attachment means when the attachment device is not mounted on a recipient neck is less than the distance between the plate and the attachment means when the attachment means is mounted on a recipient neck (a thick sized neck rim). The thin connection portion is more deformable and flexible than the rest portion of the plate.

In regard to 17-20, 23 and 24, the plate is substantially undeformable relative to the thin connection portion which more deformable. The plate is contact with the inserted seal (see fig. 3), and when the attachment device is not mounted on the recipient neck, the thin connection portion spaced from the upper end of the neck.

In regard to claims 25, 26, 28 and 29, the attachment means 13 is substantially undeformed in the final state.

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***Claim Rejections - 35 USC § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 8, 9 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over De Pous et al.. De Pous et al. do not disclose the flexible connector comprising a plurality of spacers, official notice is taken it is well known to provide plurality of grooves or spacers in a seal to reduce the thickness of the seal in order to enhance the deformation of the seal. Therefore, it would have been obvious to provide plurality of groove or spacer in the flexible connector (the thinner portion) in the sealing plate of De Pous et al.. in order to enhance the deformation or flexibility of the thinner portion of the sealing plate.

11. Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over De Pous et al. in view of VanBroklyn et al. (6,253,941). De Pous et al. do not disclose the connection having a recess spaced from the upper end of the neck. VanBroklyn et al. teach, in fig. 1, the connection of the plate having a recess spaced from the upper end of the neck. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the De Pous et al plate with the connection portion having a recess spaced from the upper end of the neck, in the view of the teaching of VanBrocklin et al., in order to enhance the deformation or flexibility of the thinner portion of the sealing plate.

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***Response to Arguments***

12. Applicant's arguments with respect to claims 1-9 and 17-29 have been considered but are moot in view of the new ground(s) of rejection.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lien Ngo whose telephone number is (703) 305-0294. The examiner can normally be reached Monday through Friday from 8:00 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful. The examiner's supervisor, Lee Young, can be reached at (703)308-2572. The Group FAX number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of the application should be directed to the Group receptionist at (703) 308-1148.

Lien Ngo

December 10, 2003

